

§ 34.50

of Justice with a request from the Department to file suit;

(5) Advise the violating party of the right to request a hearing, and reference the applicable procedures at §34.51(b); and

(6) Include a determination as to the Governor's liability, if any, in accordance with the provisions of §34.32.

(e) Where enforcement action pursuant to a Notification of Breach of Conciliation Agreement is commenced, the Director shall so notify: the Departmental granting agency; and the Governor, recipient or grant applicant, as applicable.

Subpart E—Federal Procedures For Effecting Compliance

§34.50 General.

(a) *Sanctions; judicial enforcement.* If, following issuance of a Final Determination pursuant to §34.46, or a Notification of Breach of Conciliation Agreement pursuant to §34.48, compliance has not been achieved, the Secretary may:

(1) After opportunity for a hearing, suspend, terminate, deny or discontinue the Federal financial assistance under JTPA, in whole or in part;

(2) Refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; or

(3) Take such action as may be provided by law.

(b) *Deferral of new grants.* When termination proceedings under §34.51 have been initiated, the Department may defer action on applications for new financial assistance under JTPA until a Final Decision under §34.52 has been rendered. Deferral is not appropriate when financial assistance under JTPA is due and payable under a previously approved application.

(1) New Federal financial assistance under JTPA includes all assistance for which an application or approval, including renewal or continuation of existing activities, or authorization of new activities, is required during the deferral period.

(2) New Federal financial assistance under JTPA does not include assistance approved prior to the beginning of termination proceedings or increases in

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funding as a result of changed computations of formula awards.

§34.51 Hearings.

(a) *Notice of opportunity for hearing.* As part of a Final Determination, or a Notification of Breach of a Conciliation Agreement, the Director shall include, and serve on the grant applicant or recipient (by certified mail, return receipt requested), a notice of opportunity for hearing.

(b) *Complaint; request for hearing; answer.*

(1) In the case of noncompliance which cannot be voluntarily resolved, the Final Determination or Notification of Breach of Conciliation Agreement shall be deemed the Department's formal complaint.

(2) To request a hearing, the grant applicant or recipient must file a written answer to the Final Determination or Notification of Breach of Conciliation Agreement, and a copy of the Final Determination or Notification of Breach of Conciliation Agreement, with the Office of the Administrative Law Judges.

(i) The answer must be filed within 30 days of the date of receipt of the Final Determination or Notification of Breach of Conciliation Agreement.

(ii) A request for hearing must be set forth in a separate paragraph of the answer.

(iii) The answer shall specifically admit or deny each finding of fact in the Final Determination or Notification of Breach of Conciliation Agreement. Where the grant applicant or recipient does not have knowledge or information sufficient to form a belief, the answer may so state and the statement shall have the effect of a denial. Findings of fact not denied shall be deemed admitted. The answer shall separately state and identify matters alleged as affirmative defenses and shall also set forth the matters of fact and law relied on by the grant applicant or recipient.

(3) The grant applicant or recipient must simultaneously serve a copy of its filing on the Office of the Solicitor, Civil Rights Division, Room N-2464, U.S. Department of Labor, 200 Constitution Avenue NW., Washington DC 20210.